IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FIRST DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

WRIT PETITION NO : 1397 of 2005

Between:

1 Syed Riyaz Mohammed, S/o. Syed Lal,
R/o. Badka Mohalla, H.No. 4-1-60, Adilabad district.
2 Waheda Begum, W/o. Hussain,
R/o. Badka Mohalla, H.No. 4-1-60, Adilabad district.
3 Syed Akbar Mohammed, S/o. Syed Raj Mohammed,
R/o. Badka Mohalla, H.No. 4-1-60, Adilabad district.

..... PETITIONERS

AND

1 The Principal Secretary for Revenue Department, State of

Andhra Pradesh, Secretariat, at Hyderabad.
2 The Managing Director, Andhra Pradesh Transco,

Khairtabad, Hyderabad.
3 The Deputy Executive Engineer, T.L & S.S. Nirmal,

Adilabad District.
4 The Senior Engineer, A.P. Transco, Adilabad,

District Adilabad.
5 The Executive Engineer, T.L.C. Ring Mains Division,

Mint Compound, at Hyderabad.
6 The Land Acquisition Officer cum the Revenue Divisional

Officer, Adilabad District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the

circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ order or direction, or issue an appropriate writ, more particularly one in the nature of Writ of Mandamus:- (i) Directing the respondents herein to withdraw from the acquisition of the petitioners land to the extent of 2.03 guntas situated in Sy.No. 244 of Revenue Village, Mandal and District Adilabad, from the award passed by the respondent No.6 herein under L.A. Act vide Proc. No. B/3153/82, dated 31-8-1984; (ii) Declare the action of respondents in acquiring the petitioners land without having any requirements and public purpose and then not withdrawing the said land from acquisition is illegal, arbitrary and violative of Article 14, 21, 300-A and 31 of the Constitution of India; (iii) And to pass such other order or orders

Counsel for the Petitioner:MR.S.CHANDRASEKHAR

Counsel for the Respondent No.: MR.V.AJAYAKUMAR

The Court made the following :

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ORDER:

This writ petition has been filed by the petitioners who are three in number with a prayer to issue a Writ or Order or direction more particularly one in the nature of writ of mandamus directing the respondents herein to withdraw acquisition of the petitioners' land to the extent of Ac.2.03 guntas situated in Survey No.244 of Revenue Village, Mandal and District Adilabad, from the award passed by the respondent No.6.

The petitioner No.1 has given his sworn affidavit in support of the writ petition. The affidavit averments read as under:

The petitioners are the owners of land admeasuring Ac.2.03 guntas situated in Survey No.244 of Revenue Village, Mandal and District Adilabad. The land has been acquired for the establishment of electricity Sub-Station under an award vide proceedings No.1313153 of 1982, dated 31-08-1984. The beneficiary has not taken the possession of the land and therefore, the petitioners continued to be in possession of the property. Under Section 48 of Land Acquisition Act, Government is at liberty to withdraw acquisition of any land of which possession had not been taken.

The respondent No.3 has filed counter affidavit. It is stated in the counter that the land has been acquired for establishment of Electricity Sub-Station and possession of the land has been delivered to the beneficiary and therefore, the petitioners have no right to seek withdrawal of the land from the award.

Heard, the learned counsel for the petitioners, the learned Government Pleader for Land Acquisition appearing on behalf of the 6th respondent and the learned Standing Counsel for A.P.Transco appearing on behalf of respondent No.3.

The learned counsel for the petitioners submits that the petitioners being the owners of the property have a right to seek withdrawal of the land from the award as the land is no more required by the beneficiary. In support of his submissions, reference has been made to Section 48 of the Land Acquisition Act.

The learned Government Pleader for Land Acquisition appearing for the 6th respondent submits that the advance possession was taken and the same was

delivered to the beneficiary and therefore, the petitioners are not entitled to seek withdrawal of the land from the award. It has come on record that the petitioners have submitted representations to the 6th respondent on 30-07-2005 setting out certain pleas, one of the pleas is that they continued to be possession of the property and the beneficiary does not require the land in question. In such a situation, I deem it appropriate to direct the respondents No.2 to 6 to consider the representation of the petitioners and pass appropriate orders, within a period of two months from the date of the receipt of a copy of this order.

Accordingly, the writ petition is disposed of. No costs.

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01st July, 2005.

mrb

To

1 The Principal Secretary for Revenue Department, State of

Andhra Pradesh, Secretariat, at Hyderabad.
2 The Managing Director, Andhra Pradesh Transco,

Khairtabad, Hyderabad.
3 The Deputy Executive Engineer, T.L & S.S. Nirmal,

Adilabad District.
4 The Senior Engineer, A.P. Transco, Adilabad,

District Adilabad.
5 The Executive Engineer, T.L.C. Ring Mains Division,

Mint Compound, at Hyderabad.
6 The Land Acquisition Officer cum the Revenue Divisional

Officer, Adilabad District.

7. Two CCs to GP for Land Acquisition, High Court Buildings,

Hyderbad(OUT)

8. Two CD copies.